

**REMARKS**

Claims 1, 2, 4, and 10 have been amended. Claims 1-16 are pending. A Petition for Extension of Time (three-months) is concurrently filed herewith. Applicants reserve the right to pursue the original claims and other claims in this and other applications. Applicants respectfully request reconsideration of the above-referenced application in light of the amendments and foregoing remarks.

Claims 1-16 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over European Patent No. 0 566 963 A2 ("Sato"). The rejection is respectfully traversed.

Sato does not disclose or suggest the recited features of amended claim 1. Specifically, Sato does not disclose or suggest a sample observation method comprising, *inter alia*, "matching the first composed image with the second composed image, detecting the center of tilting of each of the two composed images, causing the centers of tilting to be aligned with each other, and observing a stereoscopic view from the two composed images," as recited in claim 1. Sato does not match the first and second composed image. Sato does not detect the center of tilting of each of the two composed images causing the centers of tilting to be aligned with each other. Similarly, Sato does not observe a stereoscope view of the two composed images caused by the center of tilting alignment.

Sato, in contrast, relates to a method of photographing a stereoscopic pair of two images with different angles. As a result, a plurality of scanning images possessing different Z-axis information are acquired, and a three-dimensional image is formed by superposing the in-focus positions. In other words, Sato does not disclose the step of *comparing* images since a single three-dimensional image is formed. As indicated

above, Sato does *not* disclose the step of detecting the centers of tilting of two composed images.

Sato simply does not disclose or suggest “matching the first composed image with the second composed image,” as recited in claim 1. In other words, Applicants’ recited method compares the first composed image with the second composed image. Accordingly, Sato does not teach or suggest the subject matter of amended claim 1.

Sato does not disclose or suggest the subject matter of amended claim 2. Specifically, Sato does not teach or suggest an observation method comprising, *inter alia*, “calculating a distance between corresponding two pixels in the first all in-focus image and the second all in-focus image; calculating height information by each pixel on the basis of the distance between corresponding two pixels and a difference of angle between the first incident angle and the second incident angle; and creating a height map on the basis of the height information by each pixel.” Sato does not disclose or suggest calculating height information from each pixel on the basis of the difference of angle between the first incident angle and second incident angle.

Sato merely discloses that the specimen height ‘ $\Delta Z$ ’ is determined on the basis of variation ( $\Delta$ ) of the objective lens. Sato does not teach or suggest comparing information about two different incident angles. The only arguable similarity between Sato and Applicants’ recited invention is in terms of detecting height information. Other than that, there is no similarity between the two inventions and the subject matter of claims 1-16 would not have been obvious in view of Sato.

For similar reasons provided above with regard to claim 1, Sato does not disclose or suggest the subject matter of amended claim 4. Specifically, Sato does not teach or suggest the step of *comparing* images since a single three-dimensional image is

formed in Sato. In other words, Sato does not disclose or suggest extracting a first in-focus image, a second in-focus image at the first incident angle, and then extracting a third in-focus image and a fourth in-focus image at the second incident angle.

As such, Sato does not teach or suggest a sample observation method comprising, *inter alia*, "extracting in-focus image domains . . . based on the first secondary signal, captured at the first incident angle, and generating a first all in-focus image . . . extracting in-focus image domains . . . based on the second secondary signal, captured at the first incident angle, and generating a second all in-focus image . . . extracting in-focus image domains . . . based on the first secondary signal, captured at the second incident angle, and generating a third all in-focus image . . . ; and extracting in-focus image domains . . . based on the second secondary signal, captured at the second incident angle, and generating a fourth all in-focus image," as recited in claim 4.

For similar reasons provided above with regard to claim 2, Sato also does not teach or suggest the subject matter of amended claim 10. Sato does not teach or suggest an electron microscope that *compares* information from two different incident angles. As such, Sato does not teach or suggest a scanning electron microscope comprising, *inter alia*, "a calculation means that calculates height information of the sample by each pixel, on the basis of two all in-focus images created by the all in-focus image processing means at two different incident angles set by the incident angle control means, from the plurality of sample images of different focuses of the primary electron beam each captured at the two different incident angles," as recited in claim 10.

Claims 3, 5-9, and 11-16 are dependent claims and should be similarly allowable along with their base claims for at least the reasons provided above, and on their own merits.

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to review and pass this application to issue.

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Respectfully submitted,

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